



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,892	07/14/2003	Edward R. diGirolamo	4782-031	6857

24112 7590 04/26/2005

COATS & BENNETT, PLLC  
P O BOX 5  
RALEIGH, NC 27602

EXAMINER
----------

CANFIELD, ROBERT

ART UNIT	PAPER NUMBER
----------	--------------

3635

DATE MAILED: 04/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/618,892

Applicant(s)

DIGIROLAMO ET AL.

Examiner

Robert J Canfield

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 February 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4,7-10 and 15-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,7-10 and 15-27 is/are rejected.
- 7) ☒ Claim(s) 28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 July 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Art Unit: 3635

1. This Office action is in response to the amendment filed 02/04/05. Claims 1-4, 7-10, and 15-28 are pending. Claims 5, 6, and 11-14 have been canceled.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 2, 7-10 and 15-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,816,008 to Hohmann in view of U.S. Patent 1,810,597 to Corwin.

Hohmann provides brick 20 wall, studs 24, wallboard 16, ties in figures 2 and 5, plate 50/150, fastener openings for fasteners 48/148, holder/raised surface 52/152, freely movable ties 42/142, slot/retainer 56/156 and ribs 144.

Hohmann fails to provide a series of triangular shaped spikes cut out from the plate 50/150 and bent outwardly from the plate to least partially secure to the plate to the wall board.

Corwin teaches that at the time of the invention it was know to provide a series of triangular shaped spikes 115 cut out from a plate and bent outwardly from the plate to least partially secure to the plate to a wall board prior to inserting fasteners through openings 114 in the plate.

It would have been obvious at the time of the invention to one having ordinary skill in the art that the plate of Hohmann could have also been provided with a series of triangular shaped spikes 115 cut out from a plate and bent outwardly

Art Unit: 3635

from the plate as taught by Corwin, to at least partially secure the plate to a wall board prior to inserting fasteners 48/148 through openings in the plate. It would have been obvious because it is suggested by Corwin to use triangular shaped tangs 115 to partially secure a plate prior to using screws or nails to more permanently secure the plate and for providing additional securement of the plate to the wall board. The number spikes used (at least four) is a choice of design which would have been obvious at the time of the invention to one having ordinary skill in the art. One of ordinary skill in the art would have readily recognized the number of spikes chosen could be varied depending of design choice of the plate and spike size. It would have been nothing other than obvious engineering design practices.

4. Claims 1, 2, 7-10, 15-18, 20-23 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,955,172 to Pierson in view of U.S. Patent 1,810,597 to Corwin.

Pierson provides brick 16 wall, studs 14, wallboard 13, plate 20, fastener openings 40 for fasteners 42, holder/raised surface/retainer/slot 21,22, and freely movable ties 12/70. Figure 5 provides a tie having transverse ribs and notches at an inner end for fitting within an elongated slot in a raised surface of a plate as shown in figure 2.

Art Unit: 3635

Pierson fails to provide a series of triangular shaped spikes cut out from the plate 20 and bent outwardly from the plate to least partially secure to the plate to the wall board.

Corwin teaches that at the time of the invention it was know to provide a series of triangular shaped spikes 115 cut out from a plate and bent outwardly from the plate to least partially secure to the plate to a wall board prior to inserting fasteners through openings 114 in the plate.

It would have been obvious at the time of the invention to one having ordinary skill in the art that the plate 20 Pierson could have also been provided with a series of triangular shaped spikes 115 cut out from a plate and bent outwardly from the plate as taught by Corwin, to at least partially secure the plate to a wall board prior to inserting fasteners 42 through openings in the plate. It would have been obvious because it is suggested by Corwin to use triangular shaped tangs 115 to partially secure a plate prior to using screws or nails to more permanently secure the plate and for providing additional securement of the plate to the wall board. The number spikes used (at least four) is a choice of design which would have been obvious at the time of the invention to one having ordinary skill in the art. One of ordinary skill in the art would have readily recognized the number of spikes chosen could be varied depending of design choice of the plate and spike size. It would have been nothing other than obvious engineering design practices.

5. Claims 24, 25, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,955,172 to Pierson in view of U.S. Patent 1,810,597 to Corwin as modified above, further in view of U.S. Patent 4,206,577 to Moriez et al.

Pierson as modified by Corwin provides each of the elements of these claims as noted above except that the has a L-shape.

Moriez teaches at the time of the invention it was known to use L-shaped ties 14 in the claimed environment.

It would have been obvious at the time of the invention to one having ordinary skill in the art that an L-shaped tie such as that taught by Moriez at 14 could have been used with the base plate and retainer of Pierson. An L-shaped tie would have been an obvious choice of tie to use when working with different bricks such as those having the shape taught by Moriez.

6. Claims 1-4, 7-10, 15 and 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,373,314 to Allan in view of U.S. Patent 1,810,597 to Corwin.

Allan provides brick wall W, studs F, wallboard (column 4, lines 14-19), plate 12, fastener openings 17, 18 for fasteners 50, 51, holder/raised surface/retainer/slot 26, 27 and freely movable V-shaped ties with inwardly turned arms 44, 45.

Art Unit: 3635

Allan fails to provide a series of triangular shaped spikes cut out from the plate 20 and bent outwardly from the plate to least partially secure to the plate to the wall board.

Corwin teaches that at the time of the invention it was know to provide a series of triangular shaped spikes 115 cut out from a plate and bent outwardly from the plate to least partially secure to the plate to a wall board prior to inserting fasteners through openings 114 in the plate.

It would have been obvious at the time of the invention to one having ordinary skill in the art that the plate 12 Allan could have also been provided with a series of triangular shaped spikes 115 cut out from a plate and bent outwardly from the plate as taught by Corwin, to at least partially secure the plate to a wall board prior to inserting fasteners 50, 51 through openings in the plate. It would have been obvious because it is suggested by Corwin to use triangular shaped tangs 115 to partially secure a plate prior to using screws or nails to more permanently secure the plate and for providing additional securement of the plate to the wall board. The number spikes used (at least four) is a choice of design which would have been obvious at the time of the invention to one having ordinary skill in the art. One of ordinary skill in the art would have readily recognized the number of spikes chosen could be varied depending of design choice of the plate and spike size. It would have been nothing other than obvious engineering design practices.

7. Claim 28 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 4,382,416 shows an element having the generally features of that of the tie of claim 28 however it is in a different environment.

9. Applicant's arguments that none of the patents show the claimed features of triangular shaped spikes formed in the metal plate and projecting outwardly to form a triangular shaped opening in the plate have been considered but are moot in view of the new grounds of rejection. U.S. Patent 1,810,597 to Corwin clearly teaches that it was known at the time of the invention to strike out triangular shaped tangs 115 to fasten metal plates to wall boards. Corwin further teaches using the tangs 115 in conjunction with openings 114 for nails or screws.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



Art Unit: 3635

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J Canfield whose telephone number is 571-272-6440. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert Canfield  
Primary Examiner



4/21/05